IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

SUIT NO.3233 OF 2004

Smt. Hamida Gani Shaikh. ..Plaintiff.
Vs.
Sajid Sayeed Phaniband and ors. ..Defendants.

Mr. Bhalchandra Palav i/by Sandhya Nalavade for the plaintiff.

Mr. Chunawala i/by Wajid Shaikh for the Defendant Nos. 2 to 5.

CORAM : A.M. KHANWILKAR, J.
DATED: 20/6/2005

P.C.:

1. The counsel for the plaintiff submits that the earlier advocate on record erroneously filed this suit under the provisions of Hindu Succession Act instead of Mohammedan Law under which the parties are governed. The counsel for the defendant Nos. 2 to 5 has no objection if the plaintiff is permitted to withdraw the suit with liberty to file fresh suit on the same cause of action.

2. The defendant No.1 has not appeared though served. In the circumstances,in the interest of justice the plaintiff is permitted to withdraw the suit with liberty to file fresh suit on the same cause of action. Ordered accordingly. Refund as per rules.

(A.M. KHANWILKAR,J.)